In the United States District Court for the Middle District of Pennsylvania

JUNE TERM, 1933

No. 8694

THE UNITED STATES, APPELLANT

vs.

JACOB TROY

STATEMENT OF JURISDICTION

In compliance with Rule 12 of the Supreme Court of the United States, as amended, appellant submits herewith its statement showing the basis of the jurisdiction of the Supreme Court to entertain the appeal in the above-entitled cause:

A

Statutes

The statutory jurisdiction of the Supreme Court to review by direct appeal the order here complained of is conferred by the Act of March 2, 1907, c. 2564, 34 Stat. 1246 (U.S.C., Title 18, Sec. 682), otherwise known as the Criminal Appeals Act, and by Section 238 of the Judicial Code as

amended by the Act of February 13, 1925, c. 229, 43 Stat. 938 (U.S.C., Title 28, Sec. 345).

B

Dates of order and application for appeal

The order of the District Court was entered February 22, 1934. An application for appeal was filed March —, 1934, and allowed March —, 1934.

C

Nature of the case

The indictment was based upon Section 146 (b) of the Revenue Act of 1928, c. 852, 45 Stat. 791. It charges that Jacob Troy, as president of the Troy Oil Company, Inc., unlawfully, wilfully, and knowingly attempted to defeat and evade a large part of the tax upon the net income of the said Troy Oil Company for the year 1929 by the filing of an income-tax return which understated the net taxable income and the tax due thereon. A petition for a rule to show cause why the indictment should not be quashed was granted, and upon the hearing the court so construed Section 146 (b) of the Revenue Act of 1928 as to require that in order for an indictment to charge an offense thereunder against an officer of a corporation who filed a false and fraudulent corporate income-tax return, it was necessary to allege that the defendant, as such officer, was under a duty to file such return, and that

inasmuch as the indictment herein failed to allege that the defendant was under such a duty, it was defective. Accordingly, the court made the rule to show cause absolute, and quashed the indictment.

D

Cases sustaining jurisdiction

The following decisions are believed to sustain the jurisdiction of the Supreme Court:

United States v. *Keitel*, 211 U.S. 370, 386.
United States v. *Ramsey*, 271 U.S. 467, 469.
United States v. *Patten*, 226 U.S. 525, 535.
United States v. *Birdsall*, 233 U.S. 223, 230.
United States v. *Nixon*, 235 U.S. 231, 235.
United States v. *Heinze*, 218 U.S. 532, 540.
United States v. *Mescall*, 215 U.S. 26, 31.

Respectfully submitted.

J. CRAWFORD BIGGS,
Solicitor General of the United States.

MARCH 22, 1934.

U. S. GOVERNMENT PRINTING OFFICE: 1934